

advertently omitted from inventory and account. Property acquired after death of testator. *Myers v. Forbes*, 74 Md. 362.

This section construed in connection with secs. 32 and 33, requires that those entitled to notice be summoned before the letters *d. b. n.* are granted. *Thomas v. Knighton*, 23 Md. 325. And see *Wilcoxon v. Reese*, 63 Md. 545.

The term "person entitled" is not limited to those absolutely entitled as enumerated in sec. 33. The whole of art. 93 will be construed together. This section construed in connection with secs. 23, 24 and 30. *Kearney v. Turner*, 28 Md. 424.

If an executor dies without making a full distribution and delivery of assets of estate, it is necessary to have an administrator *d. b. n.*; executor's executor is not competent as a general rule to interfere with such assets or to render an account for deceased administrator. If fund has been lost, wasted or misapplied by deceased executors, equity, under facts of case at bar, would appoint trustee to sue for recovery of fund. *Lawson v. Burgee*, 121 Md. 208.

The appointment of an administrator *d. b. n.* is within jurisdiction of orphans' court, and personnel of appointee is a matter resting within its discretion. *Sharp v. State*, 135 Md. 559.

The party entitled having renounced, the appointment of the party next entitled, upheld—see notes to sec. 39. *Stocksdale v. Conaway*, 14 Md. 106.

This section referred to in discussing the limited discretion vested in the orphans' court. *Georgetown College v. Browne*, 34 Md. 458.

This section referred to in construing sec. 55—see notes thereto. *Tuck v. Boone*, 8 Gill, 190.

This section referred to in construing sec. 76—see notes thereto. *Lemmon v. Hall*, 20 Md. 170.

This section referred to in construing sec. 252—see notes thereto. *Macgill v. Hyatt*, 80 Md. 257.

See notes to sec. 19.

Re. payment of collateral inheritance tax by adm'r. d. b. n., see art. 81, sec. 130.

An. Code, 1924, sec. 72. 1912, sec. 71. 1904, sec. 70. 1888, sec. 71. 1798, ch. 101, sub-ch. 5, sec. 6. 1820, ch. 174, sec. 3.

75. In no case shall the executor of an executor be entitled as executor to administration *de bonis non* of the first deceased.

Cited but not construed in *Bowie v. Bowie*, 73 Md. 234; *Scott v. Fox*, 14 Md. 398; *Hammond v. Hammond*, 2 Bl. 349; *West v. Hall*, 3 H. & J. 224.

See notes to sec. 74.

An. Code, 1924, sec. 73. 1912, sec. 72. 1904, sec. 71. 1888, sec. 72. 1820, ch. 174, sec. 3.

76. The court shall, on the application of an administrator *de bonis non*, order the administrator of a deceased administrator to deliver over to him all the bonds, notes, accounts and evidences of debt which the deceased administrator may have taken, received, or had as administrator at the time of his death, and also to pay over to him the money in his hands as such on or before a certain day; and upon proof of the service of such order and the neglect or refusal of the administrator to comply therewith by the time therein specified, the court may order the bond of the deceased administrator, or of the administrator so refusing, or both of them, to be put in suit by the administrator *de bonis non*.

The orphans' court has power under this section, on application of administrator *d. b. n.*, to order administrator or executor of deceased administrator or executor "to pay over to him the money in his hands as such," and upon a refusal to comply with order, court may order the bond of deceased administrator of both of them to be put in suit. *Lawson v. Burgee*, 121 Md. 208.

The authority of the court under this section is simply to order money in hands of deceased administrator to be turned over; no question of interest can be inquired into—see notes to sec. 13. Limitations and laches. *Donaldson v. Raborg*, 26 Md. 328. And see *Donaldson v. Raborg*, 28 Md. 53; *Brays v. Roberts*, 68 Md. 514.

This section impliedly clothes court with power to inquire whether property is administered or unadministered. What assets are regarded as administered? This section construed in connection with sec. 13—see notes thereto. *Baker v. Bowie*, 74 Md. 472. And see *Lemmon v. Hall*, 20 Md. 171; *West v. Chappell*, 5 Gill, 229; *Gardner v. Simmes*, 1 Gill, 428. *Cf. Donaldson v. Raborg*, 26 Md. 324; *Crothers v. Crothers*, 121 Md. 118.

This section does not vest title to property unadministered in administrator *d. b. n.*, nor does it give him right of possession except upon court's order. *Green v. Hart*, 57 Md. 237; *West v. Chappell*, 5 Gill, 229.